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May 28, 2014

By ECF

Honorable Alison J. Nathan
United States District Judge
United States District Court
Southern District of New York
40 Foley Square, Room 2102
New York, New York 10007

Re: AIG v. Department of Financial Services and Benjamin M. Lawsky, 14 CV 2355 (AJN)

Dear Judge Nathan:

This Office represents the New York State Department of Financial Services and Benjamin Lawsky, as Superintendent of Financial Services (collectively, the "Department"), in the above referenced matter. We write to respond to AIG counsel's letter dated May 27, 2014 stating their intention to amend, and requesting an amended briefing schedule.

As the Court is aware, this action challenges the Department's current and ongoing investigation of AIG for violations of the New York Insurance Law, and any resulting potential enforcement proceedings, on state-law and a variety of constitutional grounds. The Department's motion to dismiss was served and filed on May 16, 2014. AIG's papers are now due, three weeks after the motion, on June 6, 2014, with the Department's reply two weeks later on June 20, 2014. AIG has proposed to amend its pleading by June 2, 2014 to add what it now describes as challenges to two additional New York statutes, neither of which was mentioned in the original complaint. Such claims could, potentially, substantially expand the scope of the complaint. Moreover, since these additional statutes are different from the current one, the currently pled claims cannot be understood to automatically apply to those new statutes or their application to AIG.

Nonetheless, AIG has requested a schedule under which the Department will have two weeks to prepare what could be entirely new defenses to new claims, and only a week for reply (which would include the 4th of July weekend), thus giving the Department a new abbreviated schedule, even though AIG would have additional time -- more than six weeks from the filing of

initial motion to dismiss -- to prepare opposition papers. AIG thus appears to be attempting to use the opportunity to amend its pleading to keep the Department from having sufficient time to respond to AIG's legal position.

This Office, on behalf of the Department, would like an opportunity to review the amended pleading before determining what any new briefing schedule should be. We propose that, assuming AIG files the amended pleading by close of business on June 2, that, by June 4, 2014, we will respond with a proposed briefing schedule. AIG has requested at least three additional weeks to prepare opposition to the current motion. This Office has yet to see that opposition, and should have a corresponding extension (of at least three weeks total) to prepare its responses to any new claims, and to reply.

Alternatively, assuming AIG files an amended complaint by the close of business on June 2, we request the following schedule, which gives the Department the same three additional weeks as AIG requests for itself:

(1) Any amended complaint by June 2, 2014, with (2) a new motion to dismiss by June 23, 2014. (3) AIG's opposition, two weeks and three days later, by July 10, 2014 (including an extra three business days to account for the holiday weekend), and (4) reply two weeks later, July 24, 2014.

AIG did not consult with this Office prior to submitting its proposed schedule to the Court. Moreover, while AIG has claimed a need for expedition in this matter simply because two investigative subpoenas are outstanding against it, AIG did not seek a preliminary injunction. Nor did it or does it have a basis to do so. The opportunity to amend the complaint should not be used to hamstring the Department, or prevent it from fairly presenting its position to the Court.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Elizabeth A. Forman", with a long horizontal flourish extending to the right.

Elizabeth A. Forman
Assistant Attorney General

cc: All counsel of record (by ECF)